

Draft - Revised Uniform Law on Notarial Acts
Commission on Interstate Cooperation
November 19, 2013

_____ B. _____

(By)

[Introduced]

10 A BILL to repeal §29-4-3, §29-4-4, §29-4-5, §29-4-6, §29-4-7, §29-
11 4-8, §29-4-12, §29-4-13, §29-4-14, §29-4-15 and §29-4-16 of
12 the Code of West Virginia, 1931, as amended; to repeal §29C-1-
13 101, §29C-1-102, §29C-1-103, §29C-1-104, §29C-1-105, §29C-1-
14 106, §29C-1-107, §29C-2-201, §29C-2-202, §29C-2-203, §29C-2-
15 204, §29C-2-205, §29C-2-206, §29C-2-207, §29C-2-208, §29C-2-
16 301, §29C-3-101, §29C-3-102, §29C-4-101, §29C-4-102, §29C-4-
17 103, §29C-4-104, §29C-4-201, §29C-4-202, §29C-4-203, §29C-4-
18 301, §29C-4-401, §29C-4-402, §29C-4-403, §29C-4-404, §29C-4-
19 405, §29C-5-101, §29C-5-102, §29C-5-103, §29C-5-104, §29C-6-
20 101, §29C-6-102, §29C-6-103, §29C-6-201, §29C-6-202, §29C-6-
21 203, §29C-6-204, §29C-7-101, §29C-7-201, §29C-7-202, §29C-8-
22 101 and §29C-9-101 of said code; to repeal §39-1A-1, §39-1A-2,
23 §39-1A-3, §39-1A-4, §39-1A-5, §39-1A-6, §39-1A-7, §39-1A-8 and
24 §39-1A-9, of said code; to amend and reenact §39-1-4 and §39-
25 1-5 of said code; to amend said code by adding thereto a new

1 article, designated §39-4-1, §39-4-2, §39-4-3, §39-4-4, §39-4-
2 5, §39-4-6, §39-4-7, §39-4-8, §39-4-9, §39-4-10, §39-4-11,
3 §39-4-12, §39-4-13, §39-4-14, §39-4-15, §39-4-16, §39-4-17,
4 §39-4-18, §39-4-19, §39-4-20, §39-4-21, §39-4-22, §39-4-23,
5 §39-4-24, §39-4-25, §39-4-26, §39-4-27, §39-4-28, §39-4-29,
6 §39-4-30, §39-4-31, §39-4-32, §39-4-33, §39-4-34, §39-4-35,
7 §39-4-36, §39-4-37 and §39-4-38; to amend and reenact §57-4-2
8 of said code; to amend and reenact §57-5-9 of said code; and
9 to amend and reenact §59-1-2 of said code, all relating to the
10 Revised Uniform Law on Notarial Acts; establishing the
11 effective date of the article; establishing an operative date
12 of enactment and the effect on existing law; establishing the
13 authority to perform notarial acts; establishing requirements
14 for certain notarial acts; requiring a personal appearance and
15 the identification of an individual; authorizing the right to
16 refuse to perform a notarial act; establishing instructions
17 for obtaining a signature if an individual is unable to sign;
18 setting forth who may perform a notarial act in this state;
19 establishing notarial reciprocity with other states, any
20 federally recognized Indian tribe, the federal government, and
21 foreign states; requiring a certificate for a notarial act;
22 authorizing short form certificates; requiring an official
23 stamp and the maintenance and disposition of a stamping
24 device; requiring notaries public to keep a journal of
25 notarial acts; authorizing notaries public the option of

1 selecting a technology for use in notarial acts on electronic
2 records; establishing minimum qualifications and authorizing
3 the commissioning of notaries public; requiring a bond;
4 requiring notaries public pass an examination after a course
5 of study offered by the Secretary of State; providing grounds
6 to deny, refuse to renew, revoke, suspend, or condition
7 commissions of notaries public; requiring Secretary of State
8 to maintain a database of notaries public; prohibiting certain
9 acts; authorizing the validity of notarial acts; authorizing
10 the Secretary of State to promulgate rules; authorizing the
11 continuation of a commission in effect on the effective date
12 of the act; providing that any notarial act performed before
13 the effective date of the act is not invalidated by the act;
14 providing for the uniformity of the application and
15 construction of the act; clarifying the relationship to the
16 Electronic Signatures in Global and National Commerce Act;
17 establishing maximum fees that may be charged by a notary
18 public; commissioning notaries public for state and local
19 government; establishing civil liability and criminal
20 penalties; authorizing injunctive relief; authorizing the
21 Secretary of State to investigate complaints; requiring the
22 Secretary of State to maintain certain records; establishing
23 an application fee; providing for the disposition of fees;
24 repealing statutes regulating notaries public and
25 commissioners including the Uniform Notary Act; repealing the

Uniform Recognition of Acknowledgments Act; and removing
obsolete references.

Be it enacted by the Legislature of West Virginia:

That §29-4-3, §29-4-4, §29-4-5, §29-4-6, §29-4-7, §29-4-8,
§29-4-12, §29-4-13, §29-4-14, §29-4-15 and §29-4-16 of the Code of
West Virginia, 1931, as amended, be repealed; that §29C-1-101,
§29C-1-102, §29C-1-103, §29C-1-104, §29C-1-105, §29C-1-106, §29C-1-
107, §29C-2-201, §29C-2-202, §29C-2-203, §29C-2-204, §29C-2-205,
§29C-2-206, §29C-2-207, §29C-2-208, §29C-2-301, §29C-3-101, §29C-3-
102, §29C-4-101, §29C-4-102, §29C-4-103, §29C-4-104, §29C-4-201,
§29C-4-202, §29C-4-203, §29C-4-301, §29C-4-401, §29C-4-402, §29C-4-
403, §29C-4-404, §29C-4-405, §29C-5-101, §29C-5-102, §29C-5-103,
§29C-5-104, §29C-6-101, §29C-6-102, §29C-6-103, §29C-6-201, §29C-6-
202, §29C-6-203, §29C-6-204, §29C-7-101, §29C-7-201, §29C-7-202,
§29C-8-101 and §29C-9-101 of said code be repealed; that §39-1A-1,
§39-1A-2, §39-1A-3, §39-1A-4, §39-1A-5, §39-1A-6, §39-1A-7, §39-1A-
8 and §39-1A-9, of said code be repealed; that §39-1-4 and §39-1-5,
of said code be amended and reenacted; that said code be amended by
adding thereto a new article, designated §39-4-1, §39-4-2, §39-4-3,
§39-4-4, §39-4-5, §39-4-6, §39-4-7, §39-4-8, §39-4-9, §39-4-10,
§39-4-11, §39-4-12, §39-4-13, §39-4-14, §39-4-15, §39-4-16, §39-4-
17, §39-4-18, §39-4-19, §39-4-20, §39-4-21, §39-4-22, §39-4-23,
§39-4-24, §39-4-25, §39-4-26, §39-4-27, §39-4-28, §39-4-29, §39-4-
30, §39-4-31, §39-4-32, §39-4-33, §39-4-34, §39-4-35, §39-4-36,
§39-4-37 and §39-4-38; that §57-4-2, of said code be amended and

1 reenacted; that §57-5-9, of said code be amended and reenacted and
2 that §59-1-2, of said code be amended and reenacted, all to read as
3 follows:

4 **CHAPTER 39. RECORDS AND PAPERS.**

5 **ARTICLE 1. AUTHENTICATION AND RECORD OF WRITINGS.**

6 **§39-1-4. Form of certificate of acknowledgment.**

7 The certificate of acknowledgment mentioned in the preceding
8 section may be in form or effect as follows:

9 State (territory or district) of _____, county of
10 _____, to wit:

11 I, _____, ~~a commissioner, appointed by the~~
12 ~~Governor of the State of West Virginia, for the said State (or~~
13 ~~territory or district) of _____; or I, _____, a~~
14 ~~justice of the peace of the county aforesaid; or I, _____,~~
15 ~~recorder of said county~~ municipality; or I, _____, a
16 notary public of said county; or I, _____, a
17 ~~prothonotary (or clerk)~~ clerk of the _____ court of
18 said county; (or other officer or person authorized to take
19 acknowledgments by section three of this article, as the case may
20 be), do certify that _____, whose name (or names)
21 is (or are) signed to the writing above (or hereto annexed) bearing
22 date on the _____ day of _____, ~~19 2~~ _____, has (or
23 have) this day acknowledged the same before me, in my said
24 _____.

25 Given under my hand this _____ day of _____,

1 19 2.

2 **§39-1-5. Acknowledgment by husband and wife.**

3 When a husband and wife have signed a writing purporting to
4 sell or convey real estate, the wife may acknowledge the same
5 together with, or separately from her husband. Either the husband
6 or the wife may sign and acknowledge such writing before the other
7 has signed or acknowledged it. If both acknowledge such writing at
8 the same time, the certificate of such acknowledgments may be in
9 form or effect as follows:

10 State (territory or district) of county of
11, to wit:

12 I,, ~~a commissioner appointed by the Governor of the~~
13 ~~State of West Virginia for the said State of, (or~~
14 ~~territory or district of); or I,, a justice~~
15 ~~of the peace of the said county of; or I,, a~~
16 notary public of the said county of; or I,,
17 ~~prothonotary (or clerk)~~ clerk of the court or county of
18; (or other officer or person authorized to take
19 acknowledgments by section three of this article, as the case may
20 be),* do certify and, his or her wife whose
21 names are signed to the writing above (or hereto annexed) bearing
22 date the day of, 19 2....., have this day
23 acknowledged the same before me in my said

24 Given under my hand this day of, 19
25 2.....

1 If the husband or wife acknowledge a deed or other writing
2 separately from the other, the certificate of acknowledgment after
3 the star in the foregoing form shall be in form or effect as
4 follows: do certify that, the wife of, (or
5 the husband of, as the case may be), whose name is
6 signed to the writing above (or hereto annexed) bearing date the
7 day of, 19 2, has this day acknowledged
8 the same before me in my said

9 Given under my hand this day of, 19 2
10

11 **ARTICLE 4. REVISED UNIFORM LAW ON NOTARIAL ACTS.**

12 **§39-4-1. Short title.**

13 This article may be cited as the Revised Uniform Law on
14 Notarial Acts.

15 **§39-4-2. Definitions.**

16 In this article:

17 (1) "Acknowledgment" means a declaration by an individual
18 before a notarial officer that the individual has signed a record
19 for the purpose stated in the record and, if the record is signed
20 in a representative capacity, that the individual signed the record
21 with proper authority and signed it as the act of the individual or
22 entity identified in the record.

23 (2) "Electronic" means relating to technology having
24 electrical, digital, magnetic, wireless, optical, electromagnetic,
25 or similar capabilities.

1 (3) "Electronic signature" means an electronic symbol, sound,
2 or process attached to or logically associated with a record and
3 executed or adopted by an individual with the intent to sign the
4 record.

5 (4) "In a representative capacity" means acting as:

6 (A) An authorized officer, agent, partner, trustee, or other
7 representative for a person other than an individual;

8 (B) A public officer, personal representative, guardian, or
9 other representative, in the capacity stated in a record;

10 (C) An agent or attorney-in-fact for a principal; or

11 (D) An authorized representative of another in any other
12 capacity.

13 (5) "Notarial act" means an act, whether performed with
14 respect to a tangible or electronic record, that a notarial officer
15 may perform under the law of this state. The term includes taking
16 an acknowledgment, administering an oath or affirmation, taking a
17 verification on oath or affirmation, witnessing or attesting a
18 signature, certifying or attesting a copy, and noting a protest of
19 a negotiable instrument.

20 (6) "Notarial officer" means a notary public or other
21 individual authorized to perform a notarial act.

22 (7) "Notary public" means an individual commissioned to
23 perform a notarial act by the West Virginia Secretary of State.

24 (8) "Official stamp" means a physical image affixed to or

1 embossed on a tangible record or an electronic image attached to or
2 logically associated with an electronic record.

3 (9) "Person" means an individual, corporation, business trust,
4 statutory trust, estate, trust, partnership, limited liability
5 company, association, joint venture, public corporation, government
6 or governmental subdivision, agency, or instrumentality, or any
7 other legal or commercial entity.

8 (10) "Record" means information that is inscribed on a
9 tangible medium or that is stored in an electronic or other medium
10 and is retrievable in perceivable form.

11 (11) "Sign" means, with present intent to authenticate or
12 adopt a record:

13 (A) To execute or adopt a tangible symbol; or

14 (B) To attach to or logically associate with the record an
15 electronic symbol, sound, or process.

16 (12) "Signature" means a tangible symbol or an electronic
17 signature that evidences the signing of a record.

18 (13) "Stamping device" means:

19 (A) A physical device capable of affixing to or embossing on
20 a tangible record an official stamp; or

21 (B) An electronic device or process capable of attaching to or
22 logically associating with an electronic record an official stamp.

23 (14) "State" means a state of the United States, the District
24 of Columbia, Puerto Rico, the United States Virgin Islands, or any
25 territory or insular possession subject to the jurisdiction of the

1 United States.

2 (15) "Verification on oath or affirmation" means a
3 declaration, made by an individual on oath or affirmation before a
4 notarial officer, that a statement in a record is true.

5 **§39-4-3. Applicability; operative date of enactment; effect on**
6 **existing law.**

7 (a) This article applies to a notarial act performed on or
8 after July 1, 2015.

9 (b) The repeal of chapter twenty-nine-C of this code and the
10 repeal of articles four, chapter twenty-nine and one-A, chapter
11 thirty-nine of this code and the amendment and re-enactment of
12 section two, article one, chapter fifty-nine of this code, pursuant
13 to the provisions of Enrolled [Senate/House] Bill No. _____, as
14 enacted by the Legislature during the regular session, 2014, are
15 operative on June 30, 2015. The prior enactments of chapter twenty-
16 nine-C; articles four, chapter twenty-nine and one-A, chapter
17 thirty-nine; and section two, article one, chapter fifty-nine of
18 this code, whether amended and reenacted or repealed by the passage
19 of Enrolled [Senate/House] Bill No. _____, have full force and
20 effect until the provisions of Enrolled [Senate/House] Bill No.
21 _____, are operative on June 30, 2015, unless after the
22 effective date of Enrolled [Senate/House] Bill No. _____, and
23 prior to the operative date of June 30, 2015, the provisions of
24 Enrolled [Senate/House] Bill No. _____, are otherwise repealed
25 or amended and reenacted.

1 **§39-4-4. Authority to perform notarial act.**

2 (a) A notarial officer may perform a notarial act authorized
3 by this article or by law of this state other than this article.

4 (b) A notarial officer may not perform a notarial act with
5 respect to a record to which the officer or the officer's spouse is
6 a party, or in which either of them has a direct beneficial
7 interest, financial or otherwise. A notarial act performed in
8 violation of this subsection is voidable.

9 **§39-4-5. Requirements for certain notarial acts.**

10 (a) A notarial officer who takes an acknowledgment of a record
11 shall determine, from personal knowledge or satisfactory evidence
12 of the identity of the individual, that the individual appearing
13 before the officer and making the acknowledgment has the identity
14 claimed and that the signature on the record is the signature of
15 the individual.

16 (b) A notarial officer who takes a verification of a statement
17 on oath or affirmation shall determine, from personal knowledge or
18 satisfactory evidence of the identity of the individual, that the
19 individual appearing before the officer and making the verification
20 has the identity claimed and that the signature on the statement
21 verified is the signature of the individual.

22 (c) A notarial officer who witnesses or attests to a signature
23 shall determine, from personal knowledge or satisfactory evidence
24 of the identity of the individual, that the individual appearing
25 before the officer and signing the record has the identity claimed.

1 (d) A notarial officer who certifies or attests a copy of a
2 record or an item that was copied shall determine that the copy is
3 a full, true, and accurate transcription or reproduction of the
4 record or item.

5 (e) A notarial officer who makes or notes a protest of a
6 negotiable instrument shall determine the matters set forth in
7 subsection (b), section five hundred five, article three, chapter
8 forty-six of this Code.

9 **§39-4-6. Personal appearance required.**

10 If a notarial act relates to a statement made in or a
11 signature executed on a record, the individual making the statement
12 or executing the signature shall appear personally before the
13 notarial officer. An individual making the statement or executing
14 the signature does not appear personally if the appearance is by
15 video or audio technology, even if the video is synchronous.

16 **§39-4-7. Identification of individual.**

17 (a) A notarial officer has personal knowledge of the identity
18 of an individual appearing before the officer if the individual is
19 personally known to the officer through dealings sufficient to
20 provide reasonable certainty that the individual has the identity
21 claimed.

22 (b) A notarial officer has satisfactory evidence of the
23 identity of an individual appearing before the officer if the
24 officer can identify the individual:

25 (1) By means of:

1 (A) A passport, driver's license, or government issued
2 nondriver identification card, which is current or expired not more
3 than three years before performance of the notarial act; or

4 (B) Another form of government identification issued to an
5 individual, which is current or expired not more than three years
6 before performance of the notarial act, contains the signature or
7 a photograph of the individual, and is satisfactory to the officer;
8 or

9 (2) By a verification on oath or affirmation of a credible
10 witness personally appearing before the officer and known to the
11 officer or whom the officer can identify on the basis of a
12 passport, driver's license, or government issued nondriver
13 identification card, which is current or expired not more than
14 three years before performance of the notarial act.

15 (c) A notarial officer may require an individual to provide
16 additional information or identification credentials necessary to
17 assure the officer of the identity of the individual.

18 **§39-4-8. Authority to refuse to perform notarial act.**

19 (a) A notarial officer may refuse to perform a notarial act if
20 the officer is not satisfied that:

21 (1) The individual executing the record is competent or has
22 the capacity to execute the record; or

23 (2) The individual's signature is knowingly and voluntarily
24 made.

25 (b) A notarial officer may refuse to perform a notarial act

1 unless refusal is prohibited by law other than this article.

2 **§39-4-9. Signature if individual is unable to sign.**

3 If an individual is physically unable to sign a record, the
4 individual may direct an individual other than the notarial officer
5 to sign the individual's name on the record. The notarial officer
6 shall insert "Signature affixed by (name of other individual) at
7 the direction of (name of individual)" or words of similar import.

8 **§39-4-10. Notarial act in this state.**

9 (a) A notarial act may be performed in this state by:

10 (1) A notary public of this state;

11 (2) A judge, clerk, or deputy clerk of a court of this state;

12 or

13 (3) Any other individual authorized to perform the specific
14 act by the law of this state.

15 (b) The signature and title of an individual performing a
16 notarial act in this state are prima facie evidence that the
17 signature is genuine and that the individual holds the designated
18 title.

19 (c) The signature and title of a notarial officer described in
20 subdivisions (1) or (2) of subsection (a), conclusively establish
21 the authority of the officer to perform the notarial act.

22 **§39-4-11. Notarial act in another state.**

23 (a) A notarial act performed in another state has the same
24 effect under the law of this state as if performed by a notarial
25 officer of this state, if the act performed in that state is

1 performed by:

2 (1) A notary public of that state;

3 (2) A judge, clerk, or deputy clerk of a court of that state;

4 or

5 (3) Any other individual authorized by the law of that state
6 to perform the notarial act.

7 (b) The signature and title of an individual performing a
8 notarial act in another state are prima facie evidence that the
9 signature is genuine and that the individual holds the designated
10 title.

11 (c) The signature and title of a notarial officer described in
12 subdivisions (1) or (2) of subsection (a), conclusively establish
13 the authority of the officer to perform the notarial act.

14 **§39-4-12. Notarial act under authority of federally recognized**
15 **Indian tribe.**

16 (a) A notarial act performed under the authority and in the
17 jurisdiction of a federally recognized Indian tribe has the same
18 effect as if performed by a notarial officer of this state, if the
19 act performed in the jurisdiction of the tribe is performed by:

20 (1) A notary public of the tribe;

21 (2) A judge, clerk, or deputy clerk of a court of the tribe;

22 or

23 (3) Any other individual authorized by the law of the tribe to
24 perform the notarial act.

25 (b) The signature and title of an individual performing a

1 notarial act under the authority of and in the jurisdiction of a
2 federally recognized Indian tribe are prima facie evidence that the
3 signature is genuine and that the individual holds the designated
4 title.

5 (c) The signature and title of a notarial officer described in
6 subdivisions (1) or (2) of subsection (a), conclusively establish
7 the authority of the officer to perform the notarial act.

8 **§39-4-13. Notarial act under federal authority.**

9 (a) A notarial act performed under federal law has the same
10 effect under the law of this state as if performed by a notarial
11 officer of this state, if the act performed under federal law is
12 performed by:

13 (1) A judge, clerk, or deputy clerk of a court;

14 (2) An individual in military service or performing duties
15 under the authority of military service who is authorized to
16 perform notarial acts under federal law;

17 (3) An individual designated a notarizing officer by the
18 United States Department of State for performing notarial acts
19 overseas; or

20 (4) Any other individual authorized by federal law to perform
21 the notarial act.

22 (b) The signature and title of an individual acting under
23 federal authority and performing a notarial act are prima facie
24 evidence that the signature is genuine and that the individual
25 holds the designated title.

1 (c) The signature and title of an officer described in
2 subdivisions (1), (2) or (3) of subsection (a), conclusively
3 establish the authority of the officer to perform the notarial act.

4 **§39-4-14. Foreign notarial act.**

5 (a) In this section, "foreign state" means a government other
6 than the United States, a state, or a federally recognized Indian
7 tribe.

8 (b) If a notarial act is performed under authority and in the
9 jurisdiction of a foreign state or constituent unit of the foreign
10 state or is performed under the authority of a multinational or
11 international governmental organization, the act has the same
12 effect under the law of this state as if performed by a notarial
13 officer of this state.

14 (c) If the title of office and indication of authority to
15 perform notarial acts in a foreign state appears in a digest of
16 foreign law or in a list customarily used as a source for that
17 information, the authority of an officer with that title to perform
18 notarial acts is conclusively established.

19 (d) The signature and official stamp of an individual holding
20 an office described in subsection (c) are prima facie evidence that
21 the signature is genuine and the individual holds the designated
22 title.

23 (e) An apostille in the form prescribed by the Hague
24 Convention of October 5, 1961, and issued by a foreign state party
25 to the Convention conclusively establishes that the signature of

1 the notarial officer is genuine and that the officer holds the
2 indicated office.

3 (f) A consular authentication issued by an individual
4 designated by the United States Department of State as a notarizing
5 officer for performing notarial acts overseas and attached to the
6 record with respect to which the notarial act is performed
7 conclusively establishes that the signature of the notarial officer
8 is genuine and that the officer holds the indicated office.

9 **§39C-4-15. Certificate of notarial act.**

10 (a) A notarial act must be evidenced by a certificate. The
11 certificate must:

12 (1) Be executed contemporaneously with the performance of the
13 notarial act;

14 (2) Be signed and dated by the notarial officer and, if the
15 notarial officer is a notary public, be signed in the same manner
16 as on file with the Secretary of State;

17 (3) Identify the jurisdiction in which the notarial act is
18 performed;

19 (4) Contain the title of office of the notarial officer; and

20 (5) If the notarial officer is a notary public, indicate the
21 date of expiration, if any, of the officer's commission.

22 (b) If a notarial act regarding a tangible record is performed
23 by a notary public, an official stamp must be affixed to the
24 certificate. If a notarial act is performed regarding a tangible
25 record by a notarial officer other than a notary public and the

1 certificate contains the information specified in subdivisions (2),
2 (3), and (4) of subsection (a), an official stamp may be affixed to
3 the certificate. If a notarial act regarding an electronic record
4 is performed by a notarial officer and the certificate contains the
5 information specified in subdivisions (2), (3), and (4) of
6 subsection (a), an official stamp may be attached to or logically
7 associated with the certificate.

8 (c) A certificate of a notarial act is sufficient if it meets
9 the requirements of subsections (a) and (b) and:

10 (1) Is in a short form set forth in section sixteen of this
11 article;

12 (2) Is in a form otherwise permitted by the law of this state;

13 (3) Is in a form permitted by the law applicable in the
14 jurisdiction in which the notarial act was performed; or

15 (4) Sets forth the actions of the notarial officer and the
16 actions are sufficient to meet the requirements of the notarial act
17 as provided in sections five, six, and seven of this article or law
18 of this state other than this article.

19 (d) By executing a certificate of a notarial act, a notarial
20 officer certifies that the officer has complied with the
21 requirements and made the determinations specified in sections
22 four, five, and six of this article.

23 (e) A notarial officer may not affix the officer's signature
24 to, or logically associate it with, a certificate until the
25 notarial act has been performed.

(f) If a notarial act is performed regarding a tangible record, a certificate must be part of, or securely attached to, the record. If a notarial act is performed regarding an electronic record, the certificate must be affixed to, or logically associated with, the electronic record. If the Secretary of State has established standards pursuant to section twenty-seven of this article, for attaching, affixing, or logically associating the certificate, the process must conform to the standards.

§39-4-16. Short form certificates.

The following short form certificates of notarial acts are sufficient for the purposes indicated, if completed with the information required by subsections (a) and (b) of section fifteen of this article:

(1) For an acknowledgment in an individual capacity:

State of _____

County of _____

This record was acknowledged before me on _____ by

_____ Date _____ Name (s) _____

of individual(s) _____

Signature of notarial officer _____

Stamp _____

Title of office _____

My commission expires: _____

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Commission on Interstate Cooperation
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1 (2) For an acknowledgment in a representative capacity:
2 State of _____
3 County of _____
4 This record was acknowledged before me on _____ by
5 _____
6 Date _____ Name(s) of individual(s)
7 as (type of authority, such as officer or trustee) of (name of
8 party on behalf of whom record was executed).
9 _____
10 Signature of notarial officer
11 Stamp
12 _____
13 Title of office
14 My commission expires: _____
15 (3) For a verification on oath or affirmation:
16 State of _____
17 County of _____
18 Signed and sworn to (or affirmed) before me on _____ by
19 _____
20 Date _____ Name(s) of individual(s) making
21 statement _____
22 _____
23 Signature of notarial officer
24 Stamp
25 _____

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1 Title of office

2 My commission expires: _____

3 (4) For witnessing or attesting a signature:

4 State of _____

5 County of _____

6 Signed or attested before me on _____ by _____

7 Date

8 Name(s) of individual(s) _____

9 _____

10 Signature of notarial officer

11 Stamp

12 _____

13 Title of office

14 My commission expires: _____

15 (5) For certifying a copy of a record:

16 State of _____

17 County of _____

18 I certify that this is a true and correct copy of a record in the

19 possession of _____.

20 Dated _____

21 _____

22 Signature of notarial officer

23 Stamp

24 _____

25 Title of office

1 My commission expires: _____

2 **§39-4-17. Official stamp.**

3 The official stamp of a notary public must:

4 (1) Include the notary public's name, address, jurisdiction,
5 commission expiration date, and other information required by the
6 Secretary of State; and

7 (2) Be capable of being copied together with the record to
8 which it is affixed or attached or with which it is logically
9 associated.

10 **§39-4-18. Stamping device.**

11 (a) A notary public is responsible for the security of the
12 notary public's stamping device and may not allow another
13 individual to use the device to perform a notarial act. On
14 resignation from, or the revocation or expiration of, the notary
15 public's commission, or on the expiration of the date set forth in
16 the stamping device, the notary public shall disable the stamping
17 device by destroying, defacing, damaging, erasing, or securing it
18 against use in a manner that renders it unusable. On the death or
19 adjudication of incompetency of a notary public, the notary
20 public's personal representative or guardian or any other person
21 knowingly in possession of the stamping device shall render it
22 unusable by destroying, defacing, damaging, erasing, or securing it
23 against use in a manner that renders it unusable.

24 (b) If a notary public's stamping device is lost or stolen,
25 the notary public or the notary public's personal representative or

1 guardian shall notify promptly the Secretary of State on
2 discovering that the device is lost or stolen.

3 **§39-4-19. Journal.**

4 (a) A notary public shall maintain a journal in which the
5 notary public chronicles all notarial acts that the notary public
6 performs. The notary public shall retain the journal for ten years
7 after the performance of the last notarial act chronicled in the
8 journal.

9 (b) A journal may be created on a tangible medium or in an
10 electronic format. A notary public shall maintain only one journal
11 at a time to chronicle all notarial acts, whether those notarial
12 acts are performed regarding tangible or electronic records. If
13 the journal is maintained on a tangible medium, it must be a
14 permanent, bound register with numbered pages. If the journal is
15 maintained in an electronic format, it must be in a permanent,
16 tamper-evident electronic format complying with the rules
17 promulgated by the Secretary of State.

18 (c) An entry in a journal must be made contemporaneously with
19 performance of the notarial act and contain the following
20 information:

21 (1) The date and time of the notarial act;

22 (2) A description of the record, if any, and type of notarial
23 act;

24 (3) The full name and address of each individual for whom the
25 notarial act is performed;

1 (4) If identity of the individual is based on personal
2 knowledge, a statement to that effect;

3 (5) If identity of the individual is based on satisfactory
4 evidence, a brief description of the method of identification and
5 the identification credential presented, if any, including the date
6 of issuance and expiration of any identification credential; and

7 (6) The fee, if any, charged by the notary public.

8 (d) If a notary public's journal is lost or stolen, the notary
9 public promptly shall notify the Secretary of State on discovering
10 that the journal is lost or stolen.

11 (e) On resignation from, or the revocation or suspension of,
12 a notary public's commission, the notary public shall retain the
13 notary public's journal in accordance with subsection (a) and
14 inform the Secretary of State where the journal is located.

15 (f) Instead of retaining a journal as provided in subsections
16 (a) and (e), a current or former notary public may transmit the
17 journal to the Secretary of State or a repository approved by the
18 Secretary of State.

19 (g) On the death or adjudication of incompetency of a current
20 or former notary public, the notary public's personal
21 representative or guardian or any other person knowingly in
22 possession of the journal shall transmit it to the Secretary of
23 State or a repository approved by the Secretary of State.

24 **§39-4-20. Notification regarding performance of notarial act on**
25 **electronic record, selection of technology.**

1 (a) A notary public may select one or more tamper-evident
2 technologies to perform notarial acts with respect to electronic
3 records. A person may not require a notary public to perform a
4 notarial act with respect to an electronic record with a technology
5 that the notary public has not selected.

6 (b) Before a notary public performs the notary public's
7 initial notarial act with respect to an electronic record, a notary
8 public shall notify the Secretary of State that the notary public
9 will be performing notarial acts with respect to electronic records
10 and identify the technology the notary public intends to use. If
11 the Secretary of State has established standards for approval of
12 technology pursuant to section twenty-seven of this article, the
13 technology must conform to the standards. If the technology
14 conforms to the standards, the Secretary of State shall approve the
15 use of the technology.

16 **§39-4-21. Commission as notary public; qualifications; no immunity**
17 **or benefit; disposition of fees.**

18 (a) An individual qualified under subsection (b) may apply to
19 the Secretary of State for a commission as a notary public. The
20 applicant shall comply with and provide the information required by
21 rules promulgated by the Secretary of State and pay any application
22 fee.

23 (b) An applicant for a commission as a notary public must:

24 (1) Be at least 18 years of age;

25 (2) Be a citizen or permanent legal resident of the United

1 States;

2 (3) Be a resident of or have a place of employment or practice
3 in this state;

4 (4) Be able to read and write English;

5 (5) Not be disqualified to receive a commission under section
6 twenty-three of this article; and

7 (6) have passed the examination required under section twenty-
8 two of this article.

9 (c) Before issuance of a commission as a notary public, an
10 applicant for the commission shall execute an oath of office and
11 submit it to the Secretary of State.

12 (d) Before issuance of a commission as a notary public, the
13 applicant for a commission shall submit to the Secretary of State
14 an assurance in the form of a surety bond or its functional
15 equivalent in the amount of \$10,000. The assurance must be issued
16 by a surety or other entity licensed or authorized to do business
17 in this state. The assurance must cover acts performed during the
18 term of the notary public's commission and must be in the form
19 prescribed by the Secretary of State. If a notary public violates
20 law with respect to notaries public in this state, the surety or
21 issuing entity is liable under the assurance. The surety or
22 issuing entity shall give thirty days notice to the Secretary of
23 State before canceling the assurance. The surety or issuing entity
24 shall notify the Secretary of State not later than thirty days
25 after making a payment to a claimant under the assurance. A notary

1 public may perform notarial acts in this state only during the
2 period that a valid assurance is on file with the Secretary of
3 State.

4 (e) On compliance with this section, the Secretary of State
5 shall issue a commission as a notary public to an applicant for a
6 term of four years.

7 (f) A commission to act as a notary public authorizes the
8 notary public to perform notarial acts. The commission does not
9 provide the notary public any immunity or benefit conferred by law
10 of this state on public officials or employees.

11 **§39-4-22. Examination of notary public.**

12 (a) An applicant for a commission as a notary public must pass
13 an examination administered by the Secretary of State or an entity
14 approved by the Secretary of State. The examination must be based
15 on the course of study described in subsection (b).

16 (b) The Secretary of State or an entity approved by the
17 Secretary of State shall offer regularly a course of study to
18 applicants for commissions as notaries public or government
19 notaries public in this state. The course must cover the laws,
20 rules, procedures, and ethics relevant to notarial acts.

21 **§39-4-23. Grounds to deny, refuse to renew, revoke, suspend, or**
22 **condition commission of notary public.**

23 (a) The Secretary of State may deny, refuse to renew, revoke,
24 suspend, or impose a condition on a commission as notary public for
25 any act or omission that demonstrates the individual lacks the

1 honesty, integrity, competence, or reliability to act as a notary
2 public, including:

3 (1) Failure to comply with this article;

4 (2) A fraudulent, dishonest, or deceitful misstatement or
5 omission in the application for a commission as a notary public
6 submitted to the Secretary of State;

7 (3) A conviction of the applicant or notary public of any
8 felony or a crime involving fraud, dishonesty, or deceit;

9 (4) A finding against, or admission of liability by, the
10 applicant or notary public in any legal proceeding or disciplinary
11 action based on the applicant's or notary public's fraud,
12 dishonesty, or deceit;

13 (5) Failure by the notary public to discharge any duty
14 required of a notary public, whether by this article, rules
15 promulgated by the Secretary of State, or any federal or state law;

16 (6) Use of false or misleading advertising or representation
17 by the notary public representing that the notary has a duty,
18 right, or privilege that the notary does not have;

19 (7) Violation by the notary public of a rule of the Secretary
20 of State regarding a notary public;

21 (8) Denial, refusal to renew, revocation, suspension, or
22 conditioning of a notary public commission in another state;

23 (9) Failure of the notary public to maintain an assurance as
24 provided in subsection (d), section twenty-one of this article;

25 (10) Charging more than the maximum fees specified in section

1 thirty-two of this article;

2 (11) Failure to notify the Secretary of State of an address or
3 name change pursuant to subsection (b), section twenty-four of this
4 article.

5 (b) If the Secretary of State denies, refuses to renew,
6 revokes, suspends, or imposes conditions on a commission as a
7 notary public, the applicant or notary public is entitled to timely
8 notice and hearing in accordance with article five, chapter twenty-
9 nine-a of this code.

10 (c) The authority of the Secretary of State to deny, refuse to
11 renew, suspend, revoke, or impose conditions on a commission as a
12 notary public does not prevent a person from seeking and obtaining
13 other criminal or civil remedies provided by law.

14 **§39-4-24. Database of notaries public.**

15 (a) The Secretary of State shall maintain an electronic
16 database of notaries public:

17 (1) Through which a person may verify the authority of a
18 notary public to perform notarial acts; and

19 (2) Which indicates whether a notary public has notified the
20 Secretary of State that the notary public will be performing
21 notarial acts on electronic records.

22 (b) Not later than thirty days after a notary public either:

23 (1) changes the address of his or her business or residence;

24 or

25 (2) changes his or her name,

1 the notary public shall notify the Secretary of State of the
2 address or name change.

3 **§39-4-25. Prohibited acts.**

4 (a) A commission as a notary public does not authorize an
5 individual to:

6 (1) Assist persons in drafting legal records, give legal
7 advice, or otherwise practice law;

8 (2) Act as an immigration consultant or an expert on
9 immigration matters;

10 (3) Represent a person in a judicial or administrative
11 proceeding relating to immigration to the United States, United
12 States citizenship, or related matters; or

13 (4) Receive compensation for performing any of the activities
14 listed in this subsection.

15 (b) A notary public may not engage in false or deceptive
16 advertising.

17 (c) A notary public, other than an attorney licensed to
18 practice law in this state, may not use the term "notario" or
19 "notario publico".

20 (d) A notary public, other than an attorney licensed to
21 practice law in this state, may not advertise or represent that the
22 notary public may assist persons in drafting legal records, give
23 legal advice, or otherwise practice law. If a notary public who is
24 not an attorney licensed to practice law in this state in any
25 manner advertises or represents that the notary public offers

1 notarial services, whether orally or in a record, including
2 broadcast media, print media, and the Internet, the notary public
3 shall include the following statement, or an alternate statement
4 authorized or required by the Secretary of State, in the
5 advertisement or representation, prominently and in each language
6 used in the advertisement or representation: "I am not an attorney
7 licensed to practice law in this state. I am not allowed to draft
8 legal records, give advice on legal matters, including immigration,
9 or charge a fee for those activities". If the form of
10 advertisement or representation is not broadcast media, print
11 media, or the Internet and does not permit inclusion of the
12 statement required by this subsection because of size, it must be
13 displayed prominently or provided at the place of performance of
14 the notarial act before the notarial act is performed.

15 (e) Except as otherwise allowed by law, a notary public may
16 not withhold access to or possession of an original record provided
17 by a person that seeks performance of a notarial act by the notary
18 public.

19 **§39-4-26. Validity of notarial acts.**

20 Except as otherwise provided in subsection (b), section four
21 of this article, the failure of a notarial officer to perform a
22 duty or meet a requirement specified in this article does not
23 invalidate a notarial act performed by the notarial officer. The
24 validity of a notarial act under this article does not prevent an
25 aggrieved person from seeking to invalidate the record or

1 transaction that is the subject of the notarial act or from seeking
2 other remedies based on law of this state other than this article
3 or law of the United States. This section does not validate a
4 purported notarial act performed by an individual who does not have
5 the authority to perform notarial acts.

6 **§39-4-27. Rules.**

7 (a) The Secretary of State may promulgate rules, in accordance
8 with the provisions of chapter twenty-nine-a of this code, to
9 implement this article. Rules promulgated regarding the performance
10 of notarial acts with respect to electronic records may not
11 require, or accord greater legal status or effect to, the
12 implementation or application of a specific technology or technical
13 specification. The rules may:

14 (1) Prescribe the manner of performing notarial acts regarding
15 tangible and electronic records;

16 (2) Include provisions to ensure that any change to or
17 tampering with a record bearing a certificate of a notarial act is
18 self-evident;

19 (3) Include provisions to ensure integrity in the creation,
20 transmittal, storage, or authentication of electronic records or
21 signatures;

22 (4) Prescribe the process of granting, renewing, conditioning,
23 denying, suspending, or revoking a notary public commission and
24 assuring the trustworthiness of an individual holding a commission
25 as notary public;

1 (5) Include provisions to prevent fraud or mistake in the
2 performance of notarial acts;

3 (6) Establish the process for approving and accepting surety
4 bonds and other forms of assurance under subsection (d), section
5 twenty-one of this article;

6 (7) Provide for the administration of the examination under
7 subsection (a), section twenty-two of this article, and the course
8 of study under subsection (b), section twenty-two of this article;
9 and

10 (8) Establish fees, with legislative approval in accordance
11 with the provisions of article three, chapter twenty-nine-a of this
12 code. Fees collected by the Secretary of State pursuant to
13 subdivision shall be deposited by the Secretary of State as
14 follows: One-half shall be deposited in the state general revenue
15 fund and one-half shall be deposited in the service fees and
16 collections account established by section two, article one,
17 chapter fifty-nine of this code for the operation of the office of
18 the Secretary of State. The Secretary of State shall dedicate
19 sufficient resources from that fund or other funds to provide the
20 services required by the provisions of article four, chapter
21 thirty-nine of this code.

22 (b) In promulgating, amending, or repealing rules about
23 notarial acts with respect to electronic records, the Secretary of
24 State shall consider, so far as is consistent with this article:

25 (1) The most recent standards regarding electronic records

1 promulgated by national bodies, such as the National Association of
2 Secretaries of State;

3 (2) Standards, practices, and customs of other jurisdictions
4 that substantially enact this article; and

5 (3) The views of governmental officials and entities and other
6 interested persons.

7 **§39-4-28. Notary public commission and commissioner appointment**
8 **in effect.**

9 (a) A commission as a notary public in effect on June 30,
10 2015, continues until its date of expiration. A notary public who
11 applies for a commission as a notary public on or after July 1,
12 2015, is subject to and shall comply with this article. A notary
13 public, in performing notarial acts on or after July 1, 2015, shall
14 comply with this article.

15 (b) An appointment as commissioner under the repealed
16 provisions of article four, chapter twenty-nine, of this code, in
17 effect on June 30, 2015, continues until its date of expiration. A
18 commissioner, in performing notarial acts on or after July 1, 2015,
19 shall comply with this article: *Provided*, That a person holding a
20 commission pursuant to the provisions of article four, chapter
21 twenty-nine, of this code, on June 30, 2015, is not required to
22 obtain or use a stamp required by section seventeen of this
23 article, prior to the expiration of that commission.

24 **§39-4-29. Savings clause.**

25 This article does not affect the validity or effect of a

1 notarial act performed before July 1, 2015.

2 **§39-4-30. Uniformity of application and construction.**

3 In applying and construing this uniform act, consideration
4 must be given to the need to promote uniformity of the law with
5 respect to its subject matter among states that enact it.

6 **§39-4-31. Relation to Electronic Signatures in Global and National**
7 **Commerce Act.**

8 This article modifies, limits, and supersedes the Electronic
9 Signatures in Global and National Commerce Act, 15 U.S.C. Section
10 7001 et seq., but does not modify, limit, or supersede Section
11 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize
12 electronic delivery of any of the notices described in Section
13 103(b) of that act, 15 U.S.C. Section 7003(b).

14 **§39-4-32. Maximum fees.**

15 (a) The maximum fee in this state for notarization of each
16 signature and the proper recordation thereof in the journal of
17 notarial acts is five dollars for each signature notarized.

18 (b) The maximum fee in this state for certification of a
19 facsimile of a document, retaining a facsimile in the notary's
20 file, and the proper recordation thereof in the journal of notarial
21 acts is five dollars for each eight and one-half by eleven inch
22 page retained in the notary's file.

23 (c) The maximum fee in this state is five dollars for any
24 other notarial act performed.

25 **§39-4-33. Government notaries public.**

1 (a) State and local government employees may be commissioned
2 as government notaries public to act for and in behalf of their
3 respective state and local government offices.

4 (b) A state or local government employee commissioned under
5 this section shall meet the requirements for qualification and
6 appointment prescribed in this article except that the head of the
7 state or local government office where the applicant is employed,
8 or his or her designee, shall execute a certificate that the
9 application is made for the purposes of the office and in the
10 public interest and submit it to the Secretary of State together
11 with the application for appointment as a notary public.
12 Applicants for commission as a notary public under this section are
13 exempt from fulfilling the surety requirements of subsection (d),
14 section twenty-one of this article.

15 (c) The costs of application and all notary supplies for a
16 commissioned state or local government employee shall be paid from
17 funds available to the office in which he or she is employed.

18 (d) All fees received for notarial services by a government
19 notary public appointed for and in behalf of a state or local
20 government office shall be remitted by him or her to the state or
21 local government office in which he or she is employed.

22 (e) A government notary public must comply with all provisions
23 of this article in the performance of notarial acts.

24 (f) A government notary public may acknowledge any document
25 required to be acknowledged by a notary public; *Provided, That a*

1 government notary public may not operate privately.

2 **§39-4-34. Liability of notary and of an employer of notary.**

3 (a) A notary public is liable to the persons involved for all
4 damages proximately caused by the notary's official misconduct.

5 (b) The employer of a notary public is also liable to the
6 persons involved for all damages proximately caused by the notary's
7 official misconduct, if:

8 (1) The notary public was acting within the scope of his or
9 her employment at the time he or she engaged in the official
10 misconduct; and

11 (2) The employer consented to the notary public's official
12 misconduct.

13 (c) It is not essential to a recovery of damages that a
14 notary's official misconduct be the only proximate cause of the
15 damages.

16 (d) For the purposes of this section, the term "official
17 misconduct" means any act or conduct that:

18 (1) May result in the denial, refusal to renew, revocation,
19 suspension or condition commission of a notary public pursuant to
20 section twenty-three of this article; or

21 (2) Is prohibited by section twenty-five of this article.

22 **§39-4-35. Criminal penalties.**

23 (a) A notary public who knowingly and willfully commits any
24 official misconduct is guilty of a misdemeanor, and, upon
25 conviction, shall be fined not more than \$5,000 or confined in jail

1 not more than one year, or both fined and confined.

2 (b) A notary public who recklessly or negligently commits any
3 official misconduct is guilty of a misdemeanor, and, upon
4 conviction, shall be fined not more than \$1,000.

5 (c) Any person who acts as, or otherwise willfully
6 impersonates, a notary public while not lawfully appointed and
7 commissioned to perform notarial acts is guilty of a misdemeanor,
8 and, upon conviction, shall be fined not more than \$5,000 or
9 confined in jail not more than one year, or both fined and
10 confined.

11 (d) Any person who unlawfully possesses a notary's official
12 seal or any papers or copies relating to notarial acts, is guilty
13 of a misdemeanor, and, upon conviction, shall be fined not more
14 than \$1,000.

15 (e) For the purposes of this section, the term "official
16 misconduct" means any act or conduct that:

17 (1) May result in the denial, refusal to renew, revocation,
18 suspension or condition commission of a notary public pursuant to
19 section twenty-three of this article; or

20 (2) Is prohibited by section twenty-five of this article.

21 **§39-4-36. Action for injunction; unauthorized practice of law.**

22 Upon his or her own information or upon complaint of any
23 person, the Attorney General, or his or her designee, may maintain
24 an action for injunctive relief in circuit court against any notary
25 public who renders, offers to render or holds himself or herself

1 out as rendering any service constituting the unauthorized practice
2 of the law. Any organized bar association in this state may
3 intervene in the action, at any stage of the proceeding, for good
4 cause shown. The action may also be maintained by an organized bar
5 association in this state or by the Secretary of State.

6 **§39-4-37. Administrative Complaints and Investigations.**

7 (a) In addition to the powers and duties contained in this
8 article, the Secretary of State may:

9 (1) Investigate, upon complaint or on his or her own
10 initiative, any alleged violations or irregularities of this
11 article.

12 (2) Administer oaths and affirmations, issue subpoenas for the
13 attendance of witnesses, issue subpoenas duces tecum to compel the
14 production of books, papers, records and all other evidence
15 necessary to any investigation.

16 (3) Involve the aid of any circuit court in the execution of
17 its subpoena power.

18 (4) Report any alleged violations of this article to the
19 appropriate prosecuting attorney having jurisdiction, which
20 prosecuting attorney shall present to the grand jury such alleged
21 violations, together with all evidence relating thereto, no later
22 than the next term of court after receiving the report.

23 (b) The Attorney General shall, when requested, provide legal
24 and investigative assistance to the Secretary of State.

25 **§39-4-38. Secretary of State record retention.**

1 (a) The provisions of subsection (c), section three, article
2 two, chapter five of this code notwithstanding, the Secretary of
3 State may destroy original records of appointment under this
4 article after expiration of the term of a notary public: *Provided,*
5 that the Secretary of State maintains an electronic copy of the
6 appointment for a minimum of ten years after the expiration of the
7 term of the notary public.

8 (b) The Secretary of State may destroy any original journals
9 of notarial acts in his or her possession; *Provided,* That an
10 electronic copy is maintained in accordance with the retention
11 rules of the Department of Administration.

12 **CHAPTER 57. EVIDENCE AND WITNESSES.**

13 **ARTICLE 4. DEPOSITIONS AND PERPETUATION OF TESTIMONY.**

14 **§57-4-2. Taking and certification of depositions -- Out of state**
15 **and in foreign countries.**

16 On affidavit that a witness resides out of this state, or is
17 out of it in the service thereof, or of the United States, or is
18 out of this state and for justifiable reasons will probably be out
19 of this state until after the trial of the case in which his or her
20 testimony is needed, his or her deposition may be taken by or
21 before any ~~commissioner appointed by the Governor of this state,~~ or
22 any justice, notary public or other officer authorized to take
23 depositions in the state wherein the witness may be, or, if the
24 deposition is to be taken in a foreign country, by or before such
25 commissioner or commissioners as may be agreed upon by the parties

1 or appointed by the court, or, if there be none such, by or before
2 any American minister, plenipotentiary, charge d'affaires, consul
3 general, consul, vice consul, consular agent, vice deputy consular
4 agent, commercial agent or vice commercial agent, appointed by the
5 government of the United States, or by or before the mayor or other
6 chief magistrate of any city, town or corporation in such country
7 or any notary public therein. Any person or persons taking such
8 deposition may administer an oath to the witness and take and
9 certify the deposition with his or her official seal annexed, and
10 if he or she have none, the genuineness of his or her signature
11 shall be authenticated by some officer of the same state or
12 country, under his or her official seal.

13 **ARTICLE 5. MISCELLANEOUS PROVISIONS.**

14 **§57-5-9. Administration of oaths or taking of affidavits;**
15 **authentication of affidavit made in another state or**
16 **country; oaths and affidavits of persons in military**
17 **service.**

18 Any judge of this state may administer any oath that is or may
19 be lawful for any person to take, including oaths of office, and
20 also may swear any person to an affidavit, and administer an oath
21 to any person in any proceeding.

22 Any oath or affidavit required by law, which is not of such a
23 nature that it must be made otherwise or elsewhere may, unless
24 otherwise provided, be administered by, or made before, a county
25 commissioner, notary public, ~~or a commissioner appointed by the~~

1 ~~Governor~~, or by the clerk of any court, or, in case of a survey
2 directed by a court in a case therein pending, by or before the
3 surveyor directed to execute said order of survey.

4 An affidavit may also be made before any officer of another
5 state or country authorized by its laws to administer an oath, and
6 shall be deemed duly authenticated if it be subscribed by such
7 officer, with his or her official seal annexed, and if he or she
8 have none, the genuineness of his or her signature, and his or her
9 authority to administer an oath, shall be authenticated by some
10 officer of the same state or country under his or her official
11 seal.

12 Any oath or affidavit required of a person in the military
13 service of the United States (including the Women's Army Corps,
14 Women's Appointed Volunteers for Emergency Service, Army Nurse
15 Corps, Spars, Women's Reserve, or similar women's auxiliary unit
16 officially connected with such military service of the United
17 States), may be administered by or made before any commissioned
18 officer of any branch of the military service of the United States,
19 or any auxiliary unit officially connected with such military
20 service. Such oath may be taken or affidavit made at any place
21 either within or outside the United States of America, or any
22 territory, possession or dependency thereof. The jurat to such
23 oath and certificate to such affidavit need not state the place
24 where the same is taken and shall require no seal to be affixed
25 thereto. The certificate of the officer before whom such oath is

1 taken or affidavit is made must state his or her rank, branch of
2 military service, and identification number, and such certificate
3 may be substantially in form and effect as follows:

4 IN THE MILITARY SERVICE OF THE UNITED STATES:

5 I,, being duly sworn on oath (affirmation), do
6 swear (affirm) that I am a member of the military service of the
7 United States (or of, an auxiliary to the military
8 forces of the United States); that ***, etc.

9

10 Taken, subscribed and sworn to before me,, a
11 commissioned officer in the service of the United
12 States, by, a member of the military service of the
13 United States (or of, an auxiliary to the military
14 forces of the United States), this the day of
15, ~~19~~ 2.....

16

17 (Signature of officer)

18

19 (Rank) (Identification Number)

20 Any oath or affidavit heretofore taken or made by any person
21 in the military service in substantial compliance with this section
22 shall be valid.

23 **CHAPTER 59. FEES, ALLOWANCES AND COSTS; NEWSPAPERS; LEGAL**
24 **ADVERTISEMENTS.**

25 **ARTICLE 1. FEES AND ALLOWANCES**

§59-1-2. Fees to be charged by Secretary of State.

(a) Except as may be otherwise provided in this code, the Secretary of State shall charge for services rendered in his or her office the following fees to be paid by the person to whom the service is rendered at the time it is done:

(1) For filing, recording, indexing, preserving a record of and issuing a certificate relating to the formation, amendment, change of name, registration of trade name, merger, consolidation, conversion, renewal, dissolution, termination, cancellation, withdrawal revocation and reinstatement of business entities organized within the state, as follows:

(A) Articles of incorporation of for-profit corporation.. . . . \$50.00

(B) Articles of incorporation of nonprofit corporation.. . . . 25.00

(C) Articles of organization of limited liability company.. . . . 100.00

(D) Agreement of a general partnership.. . . . 50.00

(E) Certificate of a limited partnership.. . . . 100.00

(F) Agreement of a voluntary association.. . . . 50.00

(G) Articles of organization of a business trust.. . . 50.00

(H) Amendment or correction of articles of incorporation, including change of name or increase of capital stock, in addition to any applicable license tax.. . . . 25.00

(I) Amendment or correction, including change of name, of

1	articles of organization of business trust, limited liability	
2	partnership, limited liability company or professional limited	
3	liability company or of certificate of limited partnership or	
4	agreement of voluntary association.	25.00
5	(J) Amendment and restatement of articles of incorporation,	
6	certificate of limited partnership, agreement of voluntary	
7	association or articles of organization of limited liability	
8	partnership, limited liability company or professional limited	
9	liability company or business trust.. . . .	25.00
10	(K) Registration of trade name, otherwise designated as a true	
11	name, fictitious name or D.B.A. (doing business as) name for any	
12	domestic business entity as permitted by law.	25.00
13	(L) Articles of merger of two corporations, limited	
14	partnerships, limited liability partnerships, limited liability	
15	companies or professional limited liability companies, voluntary	
16	associations or business trusts.. . . .	25.00
17	(M) Plus for each additional party to the merger in excess of	
18	two.. . . .	15.00
19	(N) Statement of conversion, when permitted, from one business	
20	entity into another business entity, in addition to the cost of	
21	filing the appropriate documents to organize the surviving entity	
22	. . . . .	25.00
23	(O) Articles of dissolution of a corporation, voluntary	
24	association or business trust, or statement of dissolution of a	
25	general partnership.. . . .	25.00

1	(P) Revocation of voluntary dissolution of a corporation,	
2	voluntary association or business trust.. . . .	15.00
3	(Q) Articles of termination of a limited liability company,	
4	cancellation of a limited partnership or statement of withdrawal of	
5	limited liability partnership.. . . .	25.00
6	(R) Reinstatement of a limited liability company or	
7	professional limited liability company after administrative	
8	dissolution.. . . .	25.00
9	(2) For filing, recording, indexing, preserving a record of	
10	and issuing a certificate relating to the registration, amendment,	
11	change of name, merger, consolidation, conversion, renewal,	
12	withdrawal or termination within this state of business entities	
13	organized in other states or countries, as follows:	
14	(A) Certificate of authority of for-profit corporation	\$100.00
15	(B) Certificate of authority of nonprofit corporation	
16	. . . . .	50.00
17	(C) Certificate of authority of foreign limited liability	
18	companies.. . . .	150.00
19	(D) Certificate of exemption from certificate of authority	25.00.
20	(E) Registration of a general partnership.	50.00
21	(F) Registration of a limited partnership.	150.00
22	(G) Registration of a limited liability partnership for	
23	two-year term.. . . .	500.00
24	(H) Registration of a voluntary association.	50.00
25	(I) Registration of a trust or business trust.	50.00

1	(J) Amendment or correction of certificate of authority of a	
2	foreign corporation, including change of name or increase of	
3	capital stock, in addition to any applicable license tax.	25.00
4	(K) Amendment or correction of certificate of limited	
5	partnership, limited liability partnership, limited liability	
6	company or professional limited liability company, voluntary	
7	association or business trust.. . . .	25.00
8	(L) Registration of trade name, otherwise designated as a true	
9	name, fictitious name or D.B.A. (doing business as) name for any	
10	foreign business entity as permitted by law.. . . .	25.00
11	(M) Amendment and restatement of certificate of authority or	
12	of registration of a corporation, limited partnership, limited	
13	liability partnership, limited liability company or professional	
14	limited liability company, voluntary association or business trust	
15	. . . . .	25.00
16	(N) Articles of merger of two corporations, limited	
17	partnerships, limited liability partnerships, limited liability	
18	companies or professional limited liability companies, voluntary	
19	associations or business trusts.. . . .	25.00
20	(O) Plus for each additional party to the merger in excess	
21	of two.	5.00
22	(P) Statement of conversion, when permitted, from one business	
23	entity into another business entity, in addition to the cost of	
24	filing the appropriate articles or certificate to organize the	
25	surviving entity.	25.00

1 (Q) Certificate of withdrawal or cancellation of a
2 corporation, limited partnership, limited liability partnership,
3 limited liability company, voluntary association or business trust
4 25.00

5 Notwithstanding any other provision of this section to the
6 contrary, after the thirtieth day of June, two thousand eight, the
7 fees described in this subdivision that are collected for the
8 issuance of a certificate relating to the initial registration of
9 a corporation, limited partnership, domestic limited liability
10 company or foreign limited liability company shall be deposited in
11 the general administrative fees account established by this
12 section.

13 (3) For receiving, filing and recording a change of the
14 principal or designated office, change of the agent of process
15 and/or change of officers, directors, partners, members or
16 managers, as the case may be, of a corporation, limited
17 partnership, limited liability partnership, limited liability
18 company or other business entity as provided by law.. . . \$15.00

19 (4) For receiving, filing and preserving a reservation of a
20 name for each one hundred twenty days or for any other period in
21 excess of seven days prescribed by law for a corporation, limited
22 partnership, limited liability partnership or limited liability
23 company.. . . . \$15.00

24 (5) For issuing a certificate relating to a corporation or
25 other business entity, as follows:

1	(A) Certificate of good standing of a domestic or foreign	
2	corporation.. . . .	\$10.00
3	(B) Certificate of existence of a domestic limited liability	
4	company, and certificate of authorization foreign limited liability	
5	company.. . . .	10.00
6	(C) Certificate of existence of any business entity, trademark	
7	or service mark registered with the Secretary of State ..	10.00
8	(D) Certified copy of corporate charter or comparable	
9	organizing documents for other business entities.	15.00
10	(E) Plus, for each additional amendment, restatement or other	
11	additional document.. . . .	5.00
12	(F) Certificate of registration of the name of a foreign	
13	corporation, limited liability company, limited partnership or	
14	limited liability partnership.. . . .	25.00
15	(G) And for the annual renewal of the name registration	
16	. . . . .	10.00
17	(H) Any other certificate not specified in this subdivision	
18	. . . . .	10.00
19	(6) For issuing a certificate other than those relating to	
20	business entities, as provided in this subsection, as follows:	
21	(A) Certificate or apostille relating to the authority of	
22	certain public officers, including the membership of boards and	
23	commissions.. . . .	\$10.00
24	(B) Plus, for each additional certificate pertaining to the	
25	same transaction.	5.00

(C) Any other certificate not specified in this
subdivision. 10.00

(D) For acceptance, indexing and recordation of service of
process any corporation, limited partnership, limited liability
partnership, limited liability company, voluntary association,
business trust, insurance company, person or other entity as
permitted by law. 15.00

(E) For shipping and handling expenses for execution of
service of process by certified mail upon any defendant within the
United States, which fee is to be deposited to the special revenue
account established in this section for the operation of the office
of the Secretary of State. 5.00

(F) For shipping and handling expenses for execution of
service of process upon any defendant outside the United States by
registered mail, which fee is to be deposited to the special
revenue account established in this section for the operation of
the office of the Secretary of State. 15.00

(7) For a search of records of the office conducted by
employees of or at the expense of the Secretary of State upon
request, as follows:

(A) For any search of archival records maintained at sites
other than the office of the Secretary of State
no less than. \$10.00

(B) For searches of archival records maintained at sites other
than the office of the Secretary of State which require more than

1 one hour, for each hour or fraction of an hour consumed in making
2 such search.. 10.00

3 (C) For any search of records maintained on site for the
4 purpose of obtaining copies of documents or printouts of data
5 5.00

6 (D) For any search of records maintained in electronic format
7 which requires special programming to be performed by the state
8 information services agency or other vendor any actual cost, but
9 not less than.. 25.00

10 (E) The cost of the search is in addition to the cost of any
11 copies or printouts prepared or any certificate issued pursuant to
12 or based on the search.

13 (F) For recording any paper for which no specific fee is
14 prescribed. 5.00

15 (8) For producing and providing photocopies or printouts of
16 electronic data of specific records upon request, as follows:

17 (A) For a copy of any paper or printout of electronic data, if
18 one sheet.. \$1.00

19 (B) For each sheet after the first50

20 (C) For sending the copies or lists by fax
21 transmission. 5.00

22 (D) For producing and providing photocopies of lists, reports,
23 guidelines and other documents produced in multiple copies for
24 general public use, a publication price to be established by the
25 Secretary of State at a rate approximating 2.00 plus .10 per page

1 and rounded to the nearest dollar.

2 (E) For electronic copies of records obtained in data format
3 on disk, the cost of the record in the least expensive available
4 printed format, plus, for each required disk, which shall be
5 provided by the Secretary of State. 5.00

6 (b) The Secretary of State may propose legislative rules for
7 promulgation for charges for on-line electronic access to database
8 information or other information maintained by the Secretary of
9 State.

10 (c) For any other work or service not enumerated in this
11 subsection, the fee prescribed elsewhere in this code or a rule
12 promulgated under the authority of this code.

13 (d) The records maintained by the Secretary of State are
14 prepared and indexed at the expense of the state and those records
15 shall not be obtained for commercial resale without the written
16 agreement of the state to a contract including reimbursement to the
17 state for each instance of resale.

18 (e) The Secretary of State may provide printed or electronic
19 information free of charge as he or she considers necessary and
20 efficient for the purpose of informing the general public or the
21 news media.

22 (f) There is hereby continued in the State Treasury a special
23 revenue account to be known as the "service fees and collections"
24 account. Expenditures from the account shall be used for the
25 operation of the office of the Secretary of State and are not

1 authorized from collections, but are to be made only in accordance
2 with appropriation by the Legislature and in accordance with the
3 provisions of article three, chapter twelve of this code and upon
4 the fulfillment of the provisions set forth in article two, chapter
5 five-a of this code. Notwithstanding any other provision of this
6 code to the contrary, except as provided in subsection (h) of this
7 section and section two-a of this article, one half of all the fees
8 and service charges established in the following sections and for
9 the following purposes shall be deposited by the Secretary of State
10 or other collecting agency to that special revenue account and used
11 for the operation of the office of the Secretary of State:

12 (1) The annual attorney-in-fact fee for corporations and
13 limited partnerships established in section five, article twelve-c,
14 chapter eleven of this code;

15 (2) The fees received for the sale of the State Register, code
16 of state rules and other copies established by rule and authorized
17 by section seven, article two, chapter twenty-nine-a of this code;

18 (3) The registration fees, late fees and legal settlements
19 charged for registration and enforcement of the charitable
20 organizations and professional solicitations established in
21 sections five, nine and fifteen-b, article nineteen, chapter
22 twenty-nine of this code;

23 (4) The annual attorney-in-fact fee for limited liability
24 companies as designated in section one hundred eight, article one,
25 chapter thirty-one-b of this code and established in section two

1 hundred eleven, article two of said chapter: Provided, That after
2 the thirtieth day of June, two thousand eight, the annual report
3 fees designated in section one hundred eight, article one, chapter
4 thirty-one-b of this code shall upon collection be deposited in the
5 general administrative fees account described in subsection (h) of
6 this section;

7 (5) The filing fees and search and copying fees for uniform
8 commercial code transactions established by section five hundred
9 twenty-five, article nine, chapter forty-six of this code;

10 (6) The annual attorney-in-fact fee for licensed insurers
11 established in section twelve, article four, chapter thirty-three
12 of this code;

13 (7) The fees for the application and record maintenance of all
14 notaries public established by ~~section one hundred seven, article~~
15 ~~one, chapter twenty-nine c~~ section twenty-one, article four,
16 chapter thirty-nine of this code.

17 ~~(8) The fees for the application and record maintenance of~~
18 ~~commissioners for West Virginia as established by section twelve,~~
19 ~~article four, chapter twenty-nine of this code;~~

20 (9~~8~~) The fees for registering credit service organizations as
21 established by section five, article six-c, chapter forty-six-a of
22 this code;

23 (10~~9~~) The fees for registering and renewing a West Virginia
24 limited liability partnership as established by section one,
25 article ten, chapter forty-seven-b of this code;

1 (~~11~~10) The filing fees for the registration and renewal of
2 trademarks and service marks established in section seventeen,
3 article two, chapter forty-seven of this code;

4 (~~12~~11) All fees for services, the sale of photocopies and data
5 maintained at the expense of the Secretary of State as provided in
6 this section; and

7 (~~13~~12) All registration, license and other fees collected by
8 the Secretary of State not specified in this section.

9 (g) Any balance in the service fees and collections account
10 established by this section which exceeds five hundred thousand
11 dollars as of the thirtieth day of June, two thousand three, and
12 each year thereafter, shall be expired to the state fund, General
13 Revenue Fund.

14 (h) (1) Effective the first day of July, two thousand eight,
15 there is hereby created in the State Treasury a special revenue
16 account to be known as the general administrative fees account.
17 Expenditures from the account shall be used for the operation of
18 the office of the Secretary of State and are not authorized from
19 collections, but are to be made only in accordance with
20 appropriation by the Legislature and in accordance with the
21 provisions of article three, chapter twelve of this code and upon
22 the fulfillment of the provisions set forth in article two, chapter
23 eleven-b of this code: Provided, That for the fiscal year ending
24 the thirtieth day of June, two thousand nine, expenditures are
25 authorized from collections rather than pursuant to an

1 appropriation by the Legislature. Any balance in the account at the
2 end of each fiscal year shall not revert to the General Revenue
3 Fund but shall remain in the fund and be expended as provided by
4 this subsection.

5 (2) After the thirtieth day of June, two thousand eight, all
6 the fees and service charges established in section two-a of this
7 article for the following purposes shall be collected and deposited
8 by the Secretary of State or other collecting agency in the general
9 administrative fees account and used for the operation of the
10 office of the Secretary of State:

11 (A) The annual report fees paid to the Secretary of State by
12 corporations, limited partnerships, domestic limited liability
13 companies and foreign limited liability companies;

14 (B) The fees for the issuance of a certificate relating to the
15 initial registration of a corporation, limited partnership,
16 domestic limited liability company or foreign limited liability
17 company described in subdivision (2), subsection (a) of this
18 section; and

19 (C) The fees for the purchase of data and updates related to
20 the State's Business Organizations Database described in section
21 two-a of this article.

22 (i) There is continued in the office of the Secretary of State
23 a noninterest bearing, escrow account to be known as the "prepaid
24 fees and services account". This account shall be for the purpose
25 of allowing customers of the Secretary of State to prepay for

1 services, with payment to be held in escrow until services are
2 rendered. Payments deposited in the account shall remain in the
3 account until services are rendered by the Secretary of State and
4 at that time the fees will be reallocated to the appropriate
5 general or special revenue accounts. There shall be no fee charged
6 by the secretary of state to the customer for the use of this
7 account and the customer may request the return of any moneys
8 maintained in the account at any time without penalty. The assets
9 of the prepaid fees and services account do not constitute public
10 funds of the state and are available solely for carrying out the
11 purposes of this section.

NOTE: The purpose of this bill is to adopt the Revised Uniform Law on Notarial Acts (Uniform Law Commission, 2010) to replace both the current Uniform Notary Act (1984) and the Uniform Recognition of Acknowledgments Act (1971).

All remaining provisions of §29-4 are repealed. The provisions of §29C-1-1, *et seq.* and §39-1A-1, *et seq.*, are repealed.